

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Friday, February 1, 2008

Division One

**A117045 – In re J.L., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Adrian L.; Christopher W., Intervener and Respondent.**

The judgment of the juvenile court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Partial Publication.)

**A117317 – Sylver Dean Good v. The Superior Court of Humboldt County; The People, R.P.I.**

By The Court: The majority opinion in this matter filed January 16, 2008 is hereby modified as follows: (See Order) This modification does not affect the judgment. Marchiano, P.J. (Certified for Publication.)

Division Three

**A112028 – The People ex rel. Paul V. Gallegos, as District Attorney, etc., et al. v. The Pacific Lumber Company et al.**

By The Court: It is ordered that the opinion filed herein on January 10, 2008, be modified as follows: (See Order) There is no change in the judgment. Pollak, Acting P.J., We Concur: Horner, J.\*, Siggins, J. (Certified for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, February 4, 2008

Division One

**A115381 & A116651 – Ivana Watson v. Mark C. Watson.**

The orders of August 7, 2006, August 14, 2006, and November 21, 2006, are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Four

**A116636 – Michael Dougherty, as Special Administrator, etc. v. Donald R. White, Alameda County Treasurer-Tax Collector, etc., et al.**

The judgment is affirmed. Costs on appeal are awarded to the County. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, February 5, 2008

Division One

**A118058 – In re Emilee T., a Person Coming Under the Juvenile Court Law.  
Mendocino County Department of Social Services v. Rick F.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A116163 – The People v. John Kolov.**

The judgment is affirmed. Stein, J., We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 5, 2008

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Stephen Umeki, Bailiff.

- A113327      Fabien  
A114548      v.  
                Crosstest, Inc.  
                Causes called. Alden Knishbacher argued for appellant Cappa. Michael Farbstein argued for respondent. Causes submitted.
- A114548      People  
                v.  
                Clarence Eddie Trapps  
                Cause called. Paul Kleven argued for appellant Trapps. Chris Wei argued for respondent. Cause submitted.
- At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.
- A117014      People  
                v.  
                Andre Lavont McDaniel  
                Cause called. Oliver Northup argued for appellant McDaniel. Christina vom Saal argued for respondent. Cause submitted.
- A118061      Jennifer A. Drinkwater et al.  
                v.  
                Black & Veatch Corporation  
                Cause called. Bryce C. Anderson argued for appellants Drinkwater et al. Dolores Bastian Dalton argued for respondent. Cause submitted.

Court adjourned until 10:55 a.m.

Tuesday, February 5, 2008 (continued)

Division Five

**A118842 – The People v. Jermaine Copes.**

The judgment is affirmed. Needham, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, February 6, 2008

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting Presiding Justice, Swager, Justice, Margulies, Justice, Mary Quilez, Deputy Clerk, and Mindy LaPonte, Bailiff.

- A111633      The People,  
                 v.  
                 Gary Winters Calvin.  
Cause called and argued by Meredith Jones Watts, counsel for appellant, and Dorian Jung, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A115095      County of Contra Costa,  
A115118      v.  
                 Public Employees Union Local One;  
                 Public Employment Relations Board.  
Cause called and argued by Arthur A. Krantz, counsel for appellant, Public Employees Union Local One, Harry J. Gibbons, counsel for appellant, Public Employment Relations Board, and Cynthia Anne Schwerin, counsel for respondent. Cause ordered submitted.
- A116364      Service Employees International Union Local 250, et al.,  
                 v.  
                 Toren Colcord, et al.  
Cause called and argued by Geoffrey Owen Evers, counsel for appellant, and Theodore Franklin, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, February 6, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Swager, Justice, Margulies, Justice, Mary Quilez, Deputy Clerk, and Mindy LaPonte, Bailiff.

A116942 Gregory Garetson,  
v.  
James Moore.  
Cause called and argued by Marc L. Sallus, counsel for appellant, and Walter S. Nomura, counsel for respondent. Cause ordered submitted.

A117494 California Sportfishing Prot. Alliance,  
v.  
State Water Resources Control Board.  
Cause called and argued by Gregory Cahill Loarie, counsel for appellant, and William Newell Jenkins, counsel for respondent. Cause ordered submitted.

Court adjourned until Thursday, February 7, 2008 at 9:00 a.m.

Wednesday, February 6, 2008 (continued)

Division One

**A115120 – In re the Marriage of Rachel and James B. Kiesel. Rachel Holton v. James B. Kiesel.**

The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Four

**A118619 – The People v. Jeremy Robert Mitchell.**

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A115911 – The People v. Jan Lawrence Erickson.**

The matter is remanded to the trial court with directions to order the California Department of Corrections to correct the abstract of judgment as noted in footnote 3 *ante*. The judgment is otherwise affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A116204 – The People v. John Henry Trautloff.**

The appeal is dismissed. Simons, J. We Concur: Jones, P.J., Stevens, J.\* (Not for Publication.)

**A118665 – The People v. Maurice M.**

The judgment is affirmed. Simons, J., We Concur: Jones, P.J., Needham, J. (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, February 7, 2008

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Stein, Justice, Swager, Justice, Fred Abad, Deputy Clerk, and Tammy Smith, Bailiff.

- A114588 Jerry Cheesman,  
v.  
Vacaville Park Apartments.  
Cause called and argued by Cynthia Hernandez, counsel for appellant, and Gary Watt, counsel for respondent. Cause ordered submitted.
- A118541 Terry Buller,  
v.  
Sutter Health, et al.  
Cause called and argued by Michael Schrag, counsel for appellant, and Jeffrey Levee, counsel respondents. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Thursday, February 7, 2008

The Court reconvened at 1:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, Presiding Justice, Stein, Justice, Margulies, Justice, Fred Abad, Deputy Clerk, and Martin Frederick, Bailiff.

- A114243     People,  
              v.  
              Stephen Jeffries.  
Cause called and argued by Hilda Scheib, counsel for appellant, and Dorian Jung, counsel for respondent. Cause ordered submitted.
- A114390     People,  
              v.  
              Boping Chen.  
Cause called and argued by Doron Weinberg, counsel for appellant, and Sharon Wooden, counsel for respondent. Cause ordered submitted.
- A116821     Anthony Nelson,  
              v.  
              City and County of San Francisco, et al.  
Cause called and argued by Maitreya Badami, counsel for appellant via teleconferencing, and Molly Stump, counsel for respondents. Cause ordered submitted.

Court Adjourned

Thursday, February 7, 2008 (continued)

Division One

**A111629 – The People v. Kurt D. Von Staden.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A114690 – Tom Gray et al. v. Mon Van Moving Services et al.**

The judgment is affirmed. Defendants shall recover their costs on appeal. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Five

**A116832 – In re Terrell J., a Person Coming Under the Juvenile Court Law. The People v. Terrell J.**

The judgment is reversed. On remand, the juvenile court shall enter an order granting appellant's motion to suppress. Needham, J. I Concur: Stevens, J.\* (See dissenting opinion by Simons, J.) (Not for Publication.)

**A118054 – The People v. Vince Allen Walker.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A117607 – The People v. Joshua Devin Randall.**

The judgment of conviction and sentence are affirmed. Simons, Acting P.J. We Concur: Needham, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

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Friday, February 8, 2008

Division One

**A114899 – The People v. Richard Leslie Davis.**

The order for probation is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Four

**A116775 – Orobo Osagie v. James Tracy et al.**

The appeal is dismissed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A116297 – The People v. Harvey Michael Mills.**

The order denying appellant's motion to suppress evidence and quash the warrant is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A117021 – The People v. Charles Lloyd Gay.**

The judgment is affirmed. Jones, P.J. We Concur: Needham, J., Stevens, J\*. (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Monday, February 11, 2008

Division One

**A117898 – In re the Marriage of Joseph Lazor and Mari Schoenbrun. Joseph Lazor v. Mari Schoenbrun; Scott Lueders.**

The order is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A11633 – The People v. Gary Calvin.**

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Publication.)

Division Three

**A118969 – Global Reach Investment Corporation v. Burlingame Investment Corporation.**

The appeal is dismissed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

**A115138 – The People v. Francisco Ramirez.**

The judgment is affirmed. McGuiness, P.J. We Concur: Siggins, J., Horner, J.\* (Certified for Publication.)

Division Four

**A117413 – The People v. Dorrell Lashan Wesson**

The judgment is affirmed. Ruvalo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A119194 – The People v. Orlando Raymond Griffin, Jr.**

The judgment is affirmed. Ruvalo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 13, 2008

Division One

**A115423 – Migule Jara, Sr. v. Suprema Meats, Inc., et al.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A117602 – In re Erin R., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Richard R.**

The orders appealed from are affirmed. Margulies, J. We Concur: Marchiano, Acting P.J., Swager, J. (Not for Publication.)

Division Two

**A113176 – The People v. Salvador Jiminez.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, February 13, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, and San Francisco, California. Present: Presiding Justice McGuiness., Siggins, J., and Horner, J., and B. Robbins, Deputy Clerk.

- A117896    The People,  
              v.  
              Usef S.  
Cause called and argued by Eileen Manning-Villar, counsel for appellant, and Christopher Grove, counsel for respondent. Cause ordered submitted.
- A118722    Christine Earnshaw,  
              v.  
              Karl Nicholas.  
Cause called. Karl Nicholas was present as appellant in pro per. There was no appearance for respondent. Matter temporarily skipped.
- A117221    Paul Whitlock et al.,  
              v.  
              Foster Wheeler.  
Cause called and argued by Edward Hugo, counsel for appellant, and Daniel U. Smith, counsel for respondents. Cause ordered submitted.
- A115240    Rosalie Nuanes,  
              v.  
              Insignia Financial Group Inc.;  
              Marshall G. Berol.  
Cause called and argued by Vincent T. Gresham, counsel for appellant, Jerome B. Falk, Jr., counsel for respondent Clennan; and Robin Meadow, counsel for respondent Insignia Financial Group, Inc., et al. Cause ordered submitted.
- A118722    Christine Earnshaw,  
              v.  
              Karl Nicholas.  
Cause called again and argued by Karl Nicholas, appellant in pro per. There was no appearance for respondent. Cause ordered submitted.
- A114845    Mohammad Azam Khan,  
              v.  
              Mahmood Alam, et al.  
Cause called and argued by Marshall Bluestone, counsel for appellant Alam; Thomas J. Becker, counsel for appellant Lee; and Robert Poyourow, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Pollak joined the bench and Justice Horner left the bench. The panel for the next two cases consisted of McGuiness, P.J., Pollak, J., and Siggins, J.

A117244     Manuel Carranco et al.,  
                 v.  
                 Eric Quintana et al.  
Cause called and argued by James L. Hand, counsel for appellants, and Gerald J. Beaudoin, counsel for respondents. Cause ordered submitted.

A112422     The People,  
                 v.  
                 Michael Rogers.  
Cause called and argued by Guy Campisano Jr., counsel for appellant, and Jeremy Friedlander. Cause ordered submitted.

At this point in the proceedings, Justice Horner re-joined the bench. Justice Siggins remained in the courtroom but did not participate in argument of the next case. The panel for the next case consisted of McGuiness, P.J., Pollak, J., and Horner, J.

A115214     Richard L. Schlossarek,  
                 v.  
                 State of California et al.  
Cause called and argued by Scott Jenny, counsel for appellant, and Kevin W. Reager, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench. The panel for the remainder of the morning calendar consisted of Pollak, Acting P.J., Siggins, J., and Horner, J.

A118325     The People,  
                 v.  
                 Herman Brown, Jr.  
Cause called and argued by Randall H. Conner, counsel for appellant, and Ronald Niver, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED**



Wednesday, February 13, 2008 (continued)

Division Four

**A116296 – The People v. Alvin Haynes.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J.  
(Not for Publication.)

**A116273 – Clinton A. Johnson v. Lillie J. Hurd.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J.  
(Not for Publication.)

**A115797 – In re I. B., a Person Coming Under the Juvenile Court Law. The People v. I. B.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Thursday February 14, 2008

Division One

**A119835 – Arthur K. v. The Superior Court of Mendocino County; Mendocino County Department of Social Services et al., R.P.I.**

The stay order issued by this court on January 31, 2008, is hereby dissolved, and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Rule 8.264(b)(3).) Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A117239 – The People v. Gibb Joseph Olivarez, Jr.**

We have thoroughly reviewed the record and, in light of the modifications obtained by appellate counsel, find no issues requiring further briefing.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A120010 – Angela L. v. Superior Court of Alameda County; Alameda County Social Services Agency et al., R.P.I.**

The request for stay is denied, and the petition for extraordinary writ is denied on the merits. (See Cal. Const., art VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.)

The section 366.26 hearing is set for March 6, 2008. The decision is final in this court immediately. (Rule 8.264(b)(3).) Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A118376 – In re D.B., a Person Coming Under the Juvenile Court Law. The People v. D.B.**

Accordingly, this judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A116938 – Susan Cohen v. Five Brooks Stable.**

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. Costs on appeal are awarded to appellant. Kline, P.J. I Concur: Richman, J. (See dissenting opinion by Haerle, J.) (Certified for Publication.)

Thursday February 14, 2008 (continued)

Division Two

**A111248 – The People v. Ernesto Luis Vargas**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Four

**A116544 – Richard B. Luke v. Collotype Labels USA, Inc.**

By The Court: The request for publication of this court's January 18, 2008 opinion is granted, and it is hereby ordered that said opinion be published in the Official Reports. Ruvolo, P.J. (Certified for Publication.)

**A118061 – Jennifer A. Drinkwater et al. v. Black & Veatch Corporation**

Judgment for respondent is affirmed. Respondent is awarded its costs on appeal. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

**A116340 – The People v. Kelvin Lee Simpson**

Judgment is affirmed. Stevens, J.\* We Concur: Jones, P.J., Needham, J. (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Friday, February 15, 2008

Division One

**A117232 – In re Dearey T., a Person Coming Under the Juvenile Court Law. The People v. Dearey T.**

Upon our review of the entire record we conclude that the juvenile court did not abuse its discretion by removing defendant from the custody of his parents and ordering his commitment to the Camp Sweeney facility. (*In re Robert H.*, *supra*, 96 Cal.App.4th 1317, 1330; *In re James H.* (1981) 121 Cal.App.3d 268, 273-275.) Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A117804 – Estate of Louis Morra, Deceased. John Morra v. Bobbye Morra.**

Judgment and order is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A113111 – The People v. Alvin Smart.**

**A119279 – In re Alvin Smart On Habeas Corpus.**

Judgment is affirmed and the petition for writ of habeas corpus is denied. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A116210 – The People v. Michael Claude Wilen.**

For the reasons given in *People v. Bonnetta et al.*, A115732, filed on November 15, 2007, the sentence imposed on defendant Wilen is vacated, and the cause is remanded to the trial court. The judgment of conviction is affirmed in all other respects. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Friday, February 15, 2008 (continued)

Division Three

**A110891 – The People v. Luke Clay Hasler.**

The judgment is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

**A114767 – The People v. James Byrd McQueen.**

The judgment is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Siggins, J. (Certified for Partial Publication.)

**A116333 – Grimilda Almendares v. Rosabel Almendares.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

**A115759 – The People v. Charles Alfred McCovey.**

The judgment is reversed. Siggins, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A117221 – Paul Whitlock et al. v. Foster Wheeler, LLC et al.**

The trial court's order granting the Whitlocks' motion for a new trial on the basis of juror misconduct is affirmed. Horner, J.\*, We Concur: McGuiness, P.J., Siggins, J. (Certified for Publication.)

Division Four

**A114257, A114273 – Cardinal Health 110, Inc. v. State Board of Equalization.**

By The Court: The petition for rehearing filed by plaintiff on January 31, 2008, is denied. The opinion filed herein on January 18, 2008, is ordered modified as follows: (See Order). There is no change in the judgment. Reardon, Acting P.J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, February 19, 2008

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Lambden, J., Richman, J., Officer LaPonte and I. Santos, Deputy Clerk.

A116729      Vahid Razavi,  
                 v.  
                 Neocase Software Incorporated.  
Cause called and argued by Marlene Muraco, counsel for appellant, and Cliff Palefsky, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION TWO

Tuesday, February 19, 2008

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Haerle, Acting P.J., Lambden, J., Richman, J., Officer LaPonte and I. Santos, Deputy Clerk.

- A116487      In re Michael R., a Person Coming Under the Juvenile Court Law.  
The People,  
v.  
Michael R.  
Cause called and argued by Sara Lillian Zimmerman, counsel for appellant, and Sharon Wooden, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A115491/  
A115663      State Building and Construction Trades Council of California,  
v.  
John Rea et al.;  
Southern California Housing Development Corp.  
Cause called and argued by Anthony Mischel, counsel for appellant John Rea et al., Dennis B. Cook, counsel for real party in interest Southern California Housing Development Corp., and Rebekah Evenson, counsel for respondent. Cause ordered submitted.
- A117338      Joseph Debro,  
v.  
Turner Construction Co.;  
Office of the Port of Oakland Attorney.  
Cause called and argued by Joseph Debro, in propria persona, Timothy A. Colvig, counsel for respondent Port of Oakland, and Francis Torrence, counsel for respondent Turner Construction Co. Cause ordered submitted.
- A116935      City of Fremont,  
v.  
George W. Fisher et al.  
Cause called and argued by John Erickson, counsel for appellant, and Heidi Timken, counsel for respondent. Cause ordered submitted.

**Court adjourned.**

Tuesday, February 19, 2008 (continued)

Division Two

**A115924 – Lee Edmundson v. Board of Supervisors for County of Mendocino; Monte Reed et al., R.P.I.**

By The Court: It is ordered that the unpublished opinion filed herein on January 23, 2008, be modified as follows: (See Order). There is no change in the judgment. Appellant's petition for rehearing is denied. Kline, P.J. (Not for Publication.)

**A116044 – The People v. Lucy Ellen Cheesman.**

The judgment, sentence imposed, and orders revoking probation are all affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

**A114976 – The People v. Danh Huynh.**

The appeal is dismissed. Pollak, J. We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A118604 – The People v. Dennis Earl Hicks, Jr.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

**A119973/A119974 – Janet G., et al. v. The Superior Court of Sonoma County; Sonoma County Human Services Department, R.P.I.**

The petitions are denied on the merits. (§ 366.26, subd. (l)(1)(C); Cal. Rules of Court, rule 8.452(i)(1).) Our decision is final immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.



Tuesday, February 19, 2008 (continued)

Division Five

**A115358 – David A. Simon v. Alameda County.**

The judgment is affirmed. Stevens, J.\* We Concur: Simons, Acting P.J., Needham, J.  
(Not for Publication.)

**A118580 – Adoption of Hayden T., a minor. Elwood L., et al. v. Robert T.**

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. Needham, J. We Concur: Simons, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Wednesday, February 20, 2008

Division One

**A117748 – In re J. S., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Tyrone C.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A117347 – The People v. Jermaine West.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A115766 – In re A.B., a Person Coming Under the Juvenile Court Law. The People v. A.B.**

The order committing defendant to the DJJ is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A117779 – In re T.T., a Person Coming Under the Juvenile Court Law. Solano County Health & Social Services Department v. George T.**

The jurisdictional and dispositional findings and orders are affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

**A118722 – In re the Marriage of Christine Earnshaw and Karl Nicholas. Christine Earnshaw v. Karl Nicholas.**

The order awarding costs and attorney fees is reversed. Siggins, J. We Concur: McGuinness, P.J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, February 20, 2008 (continued)

Division Three

**A117896 – In re Usef S., a Person Coming Under the Juvenile Court Law. The People v. Usef S.**

The dispositional order is set aside, and the matter is remanded to the juvenile court for further proceedings in compliance with section 702 and California Rules of Court, rule 5.795, subdivision (a). Horner, J.\* We Concur: McGuinness, P.J., Siggins, J. (Certified for Partial Publication.)

**A114845 – Mohammad A. Khan v. Mahmood Alam et al.**

The judgment is reversed and the matter remanded to the trial court for further proceedings consistent with this opinion. Khan shall bear costs on appeal. Horner, J.\* We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

**A115240 – Rosalie Nuanes et al. v. Insignia Financial Group, Inc.; Marshall G. Berol.**

The order approving the settlement is affirmed. Siggins, J. We Concur: McGuinness, P.J., Horner, J.\* (Not for Publication.)

**A117244 – Manuel Carranco et al. v. Eric Quintana.**

The judgment is affirmed. Quintana shall recover his costs on appeal. Pollak, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication.)

**A118325 – The People v. Herman Brown, Jr.**

The judgment is affirmed. Horner, J.\* We Concur: Pollak, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

**A115685 – The People v. Dennis O’Neal Perry.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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Wednesday, February 20, 2008 (continued)

Division Five

**A115484 – The People v. Ronald Gene Knight.**

The judgment is affirmed. Needham, J. We Concur: Simons, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Thursday, February 21, 2008

Division One

**A118130 – In re K.L., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Cheryl H.**

The order for a legal guardianship is reversed, and the cause is remanded to the juvenile court for further proceedings consistent with this opinion. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

**A116116 – Wells Fargo Bank, N.A. v. Superior Court County of San Francisco; Mary L. Richtenburg et al., R.P.I.**

By The Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Three

**A118516 – In re Shawn M., a Person Coming Under the Juvenile Court Law. The People v. Shawn M.**

The orders of the juvenile court are affirmed. Siggins, J., We Concur: McGuiness, P.J., Horner, J.\* (Not for Publication.)

**A117319 – Ruben Guerrero v. Rodan Termite Control, Inc., et al.**

The judgment is affirmed. Rodan shall recover its costs on appeal. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

**A116034 – The People v. Steven Michael Stone.**

**A117978 – In re Steven Michael Stone on Habeas Corpus.**

The judgment is affirmed in docket number A116034 and defendant's petition for writ of habeas corpus in docket number A117978 is denied. Horner, J.\* We Concur: Pollak, Acting P.J., Siggins, J. (Certified for Partial Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, February 21, 2008 (continued)

Division Four

**A114857 – Dan Earls v. Hagemann Meat Company, Inc., et al.**

We reverse the judgment of nonsuit on Earls's cause of action for wrongful discharge in violation of public policy, as well as the order granting summary adjudication of his contract-related claims. Respondents to bear costs on appeal. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, February 21, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Stevens, J.,\* and Eric F. Cyman, Deputy Clerk.

- A109300 Marietta Harvey,  
A111450 v.  
Sybase Inc.  
Cause called and argued by Paul Fogel, counsel for appellant and cross-respondent, and by Bruce Nye, counsel for respondent and cross-appellant. Cause ordered submitted.
- A112463 The People,  
v.  
Ronnie Dean Jones.  
Cause called and argued by Katarzyna Kozik, counsel for appellant, and by Jeremy Friedlander, counsel for respondent. Cause ordered submitted.
- A115272 The People,  
v.  
\$224,060.89 U.S. Currency,  
Casey Christopher Wheeler et al.  
Cause called and argued by David m. Michael, counsel for real parties in interest and appellants, and by William S. Mount, counsel for respondent. Cause ordered submitted.
- A118142 Nicholas J. Sanguinetti,  
v.  
Shirley Mendoza.  
Cause called and argued by Nicholas J. Sanguinetti, appellant in pro per. Cause ordered submitted.
- A116218 California Newspaper Partnership,  
v.  
County of Marin et al.  
Cause called and argued by Roger Myers, counsel for appellant, and by Donald Ramsey counsel for respondent. Cause ordered submitted.
- A115234 James J. Branscom Jr.,  
Frank C. Whittlsey,  
v.  
Louise Watson Branscom, et al.  
Cause called and argued by Nickolas Tooliatos, counsel for appellant. Cause ordered submitted.

A117346 Santa Clara County Correctional Peace Officers Association,  
v.

Richard Abbate et al.

Cause called and argued by Douglas Allen, counsel for appellant, and by Donald Ramsey,  
counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.



**MINUTES**  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Thursday, February 21, 2008

Court re-convened at 1:30 p.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Needham, Jr., J., Stevens, J.\* Eric F. Cyman, Deputy Clerk.

- A114289 Linda Demery,  
v.  
Hartford Underwriters Insurance Company.  
Cause called and argued by Robert A. Lewis, counsel for appellant, and by Jeff Fackler, counsel for respondent. Cause ordered submitted.
- A117381 Mitchell J. Bilafer,  
A118093 v.  
Judith Doyle et al.  
Cause called and argued by Charles Bird, counsel for appellant, and by Juliette Nguyen, counsel for respondent. Cause ordered submitted.
- A115394 The People,  
v.  
David Davenport, III.  
Cause called and argued by Laretta M. Komlos, counsel for appellant, and by Christina Vom Saal, counsel for respondent. Cause ordered submitted.
- A118789 Albyn Douglas Mackintosh et al,  
v.  
Half Moon Bay Fire Protection District et al.  
Cause called and argued by Duane Reno, counsel for appellant, and by Jean B. Savaree, counsel for respondent. Cause ordered submitted.
- A118904 Alameda County Social Services Agency,  
v.  
Hans R.,  
Rory R. et al.  
Cause called and argued by Donna Furth, counsel for appellant and cross-respondent, and by L. Richard Braucher, counsel for respondent and cross-appellant. Cause ordered submitted.

Court adjourned at 3:40 p.m.

\*Retired Associate Justice of the Court of Appeal, First Appellate District, Division Five, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 22, 2008

Division One

**A116364 – Service Employees International Union, Local 250, et al. v. Torren Colcord et al.**

The matter is remanded to the trial court to set aside the award for Local 250's election costs as to defendants Colcord and Rutherford. The trial court, on remand, may, if deemed reasonable or necessary, reconsider the amount of punitive damages awarded against defendant Colcord as well. The judgment is affirmed in all other respects. Each side to bear its own costs on appeal. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Publication.)

**A111267 & A112153 – Conrad J. Dell'oca et al. v. The Bank of New York Trust Company, N.A.**

By The Court: It is ordered that the opinion filed herein on January 29, 2008, be modified as follows: (See Order.) There is no change in the judgment. Plaintiffs' petition for rehearing is denied. Marchiano, P.J. (Certified for Publication.)

**A118120 – The People v. Jason Cline Christensen.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

**A115471 – Harold Lightfoot v. Peninsula Equine Medical and Surgery Group et al.**

The judgment is reversed and the case remanded to the trial court with instructions to vacate the judgment entered against appellants and, instead, to enter judgment in their favor. (See Code Civ. Proc., § 629.) Costs on appeal are awarded to appellants. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Monday, February 25, 2008

Division One

**A117260 – The People v. Michael Breck Lemon.**

By The Court: It is ordered that the opinion filed herein on January 25, 2008, be modified as follows: (See Order.) There is no change in the judgment. Margulies, Acting P.J.(Not for Publication.)

Division Two

**A119820 – In re Francisco P., a Person Coming Under the Juvenile Court Law. The People v. Francisco P.**

The November 6,2007 order is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A113034 – 1100 Park Lane Associates v. Konrad Feldman et al.; Konrad Feldman et al. v. 1100 Park Lane Associates et al.**

The order denying the motion to strike the cross-complaint causes of action for negligence, breach of the implied covenant of quiet enjoyment, wrongful eviction under the Rent Ordinance, breach of contract, and unfair business practices is reversed and the matter remanded with directions to grant the motion as to those causes of action. The order is affirmed insofar as it grants the motion to strike the cause of action for retaliatory eviction and denies the motion to strike the cause of action for negligent misrepresentation. Park Lane cross-defendants are awarded their costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

**A117233 – In re Donte J., a Person Coming Under the Juvenile Court Law. The People v. Donte J.**

The jurisdictional finding underlying the dispositional order is modified by showing that the minor committed misdemeanor battery (Pen. Code, §§ 242, 243, subd. (a)). As so modified, the order is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

**A114029 – The People v. Roger Hyder.**

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Monday, February 25, 2008 (continued)

Division Three

**A118626 – Conservatorship of the Person and Estate of Frank W. Arlene Piacente v. Frank W.**

By The Court: Frank W. appeals from an order establishing a conservatorship of his person and estate. Appellant's attorney filed a brief with this court on December 10, 2007, indicating there are no arguable issues for appeal. Appellant was afforded an opportunity to file a supplemental brief but did not do so. The brief filed by appellant's attorney provides an adequate basis for this court to dismiss the appeal on its own motion. (*Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 544.) The appeal is dismissed. McGuiness, P.J., Pollak, J., Horner, J.\* (Not for Publication.)

Division Four

**A117009 – The People v. Christina Patrino Boyer.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A119245 – The People v. Levi Anthony Olmstead.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A118131 – In re W.P., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. J.L. et al.**

The juvenile court's jurisdictional/dispositional order is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

**A117346 – Santa Clara County Correctional Peace Officers Association v. Richard T. Abbate et al.**

The order is affirmed. Needham, J. We Concur: Jones, P.J., Stevens, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Tuesday, February 26, 2008

Division One

**A117969 – In re Theodore L., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Theodore L., Sr.**

The order terminating appellant's parental rights is affirmed. By an order filed this same day we deny appellant's petition for writ of habeas corpus (A119476). (As footnote 9.) Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A114430 – IMX, Inc. v. Boris Auerbuch et al.**

The order denying the Auerbuchs their attorney fees is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A118870 – Cynthia Lea Clark Markowitz v. Penny Sue Markowitz.**

The judgment is affirmed. Defendant is awarded her costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

**A116155 – Justin Sallinen, a Minor, etc., et al. v. Upper Lake Union High School District.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A119440 – In re Eryn M., a Person Coming Under the Juvenile Court Law. The People v. Eryn M.**

The order placing defendant in a residential treatment facility is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A116487 – In re Michael R., a Person Coming Under the Juvenile Court Law. The People v. Michael R.**

We affirm the juvenile court's judgment regarding count 1, which alleged Michael R. committed a robbery, and reverse with regard to count 2, which alleged he committed he attempted robbery. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Tuesday, February 26, 2008 (continued)

Division Two

**A118515 – In re Jonathan C., a Person Coming Under the Juvenile Court Law. The People v. Jonathan C.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A115081 – In re the Marriage of Kathryn Gimple and Scott Parker. Kathryn (Gimple) Probasco v. Scott Parker.**

We reverse the “Judgment on Reserved Issues: Child Custody and Visitation (Non-Montenegro Orders)” from the July 20, 2005, ruling of the court, entered on June 20, 2006, and remand to the trial court with instructions to issue a proper statement of decision. In the interests of justice, each party shall bear its own costs on appeal. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication)

Division Three

**A116894 – The People v. John Lamont Winn.**

The judgment is affirmed. Siggins, J. We Concur: Pollak, Acting P.J., Horner, J.\* (Not for Publication.)

**A117361 – The People v. Quincy Powell, Jr.**

The judgment is affirmed. Pollak, Acting P.J. We Concur: Siggins, J., Horner, J.\* (Not for Publication.)

**A120437 – Jessica Pan v. The Superior Court of San Mateo County; Michael Beesley, R.P.I.**

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order denying petitioner’s peremptory challenge to Commissioner Jakubowski and enter a new and different order granting petitioner’s section 170.6 challenge. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, February 26, 2008

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A117090      Philip Evans  
                 v.  
                 Benicia Housing Authority  
Cause called. Ellen Lake argued for appellant Evans. Justine Hinderliter argued for respondent. Cause submitted.

A118073      People  
                 v.  
                 Justin B.  
Cause called. Kari Hong argued for appellant Justin B. Ronald Niver argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A117014      Joy H. Regan  
                 v.  
                 Daniel J. Regan  
Cause called. Donald Bicknell teleargued for appellant Daniel J. Regan. Brenda S. Morgan teleargued for respondent. Cause submitted.

A114930      Simon David Aviel  
                 v.  
                 Christina Ng et al.  
                 Khalil Abusharkh et al.  
Cause called. Patrick Galligan argued for appellants Ng. Todd Thacker argued for respondent Aviel. Derek Austin argued for respondents Abusharkh. Cause submitted.

Court adjourned until 10:53 a.m.

Tuesday, February 26, 2008 (continued)

Division Four

**A117079 – The People v. Jessica Tearesa Cannon-Perez.**

We affirm the judgment but direct that the abstract of judgment be modified to reflect (1) a single restitution fine of \$1,000 with a matching parole revocation fine, and (2) a total of 294 days of credit. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

**A115313 – The People v. Clarence Eddie Trapps.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A118142 – Nicholas J. Sanguinetti v. Shirley Mendoza.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution



Wednesday, February 27, 2008

Division One

**A116664 – In re Kevin R., a Person Coming Under the Juvenile Court Law. The People v. Kevin R.**

The judgment of the juvenile court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A114196 – Nicholas Panoutsopoulos et al. v. Peter Karsant.**

We find Karsant had standing to file the appeal. As the order from which Karsant appeals already has been reversed, we take no further action on it, but remand the matter to the trial court for further proceedings consistent with our decision in *Panoutsopoulos v. Chambliss*, *supra*, 157 Cal.App.4th 297. Karsant is awarded his costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A116821 – Anthony D. Nelson v. City and County of San Francisco et al.**

The trial court's judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A117483 & A119042 – The People v. Adam Scott Hennings.**

After a full review of the record, we find no arguable issues. The clerk of the court is ordered to file an amended abstract of judgment reflecting that defendant entered a plea to count two; the clerk is then to forward a copy of the amended abstract of judgment to the California Department of Corrections. The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A115098 – The People v. Omar Yang Han.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

**A117200 – In re Wyatt G., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Department v. Joe B. et al.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

**A119418 – The People v. William Gordon Groza.**

There was no sentencing error. There are no legal issues that require further briefing. The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, February 27, 2008

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, and San Francisco, California. Present: Presiding Justice McGuinness., Pollak, J., and Horner, J., and B. Robbins, Deputy Clerk.

- A115583     In re Marc A., et al.  
              Sonoma County Human Services Department,  
              v.  
              Oralee A.  
Cause called and argued by Sharon S. Rollo, counsel for appellant; Donna W. Furth, counsel for minors; Janet G. Sherwood, counsel for amicus curiae; and Tara Harvey, counsel for respondent. Cause ordered submitted.
- A117305     City of Cloverdale,  
              v.  
              Alex Kumar, et al.  
Cause called and argued by Frank Weiser, counsel for appellants, via teleconference, and Nancy B. Thorington, counsel for respondent. Cause ordered submitted.
- A115465     The People,  
              v.  
              Richard Dean Peacock.  
Cause called and argued by Marcia C. Levine, counsel for appellant, and Jeffrey M. Laurence, counsel for respondent. Cause ordered submitted.
- A114651     Palm Medical Group, Inc.,  
              v.  
              State Compensation Insurance Fund.  
Cause called and argued by Drew Pomerance, counsel for appellant/cross-respondent; and Paul E. Glad, counsel for respondent/cross-appellant. Cause ordered submitted.
- A118375     Los Angeles County Dependency Attorneys, Inc.  
              v.  
              Department of General Services;  
              Kenneth Krekorian, et al.  
Cause called again and argued by Jerome Sapiro, Jr., counsel for appellant, and Jason E. Rios, counsel for respondent. Cause ordered submitted.

A116030 Margaret Profeta, et al.,  
v.  
Vesta Fire Insurance.  
Cause called and argued by Kenneth B. Tishgart, counsel for appellants, and Robert H. Nunnally, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Horner left the bench. Presiding Justice McGuinness announced that the panel for the next two cases consists of himself, Justice Pollak and Justice Siggins; however, Justice Siggins was away from court and will have recordings of oral argument and will conference the case with the panel when he returns. Oral argument proceeded without the presence of Justice Siggins.

A116952 Patricia Mackey,  
v.  
American General Life Insurance.  
Cause called and argued by Larry D. Schuh, counsel for appellant, and Adrienne Publicover, counsel for respondent. Cause ordered submitted.

A118500 Tracy Frey,  
v.  
City of East Palo Alto, et al.  
Cause called and argued by Paul R. Coble, counsel for appellants, and Alison Wilkinson Berry, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuinness left the bench and Justice Horner re-joined the bench. Justice Pollak presided over the remainder of the morning calendar. Justice Pollak announced that the panel for the last case consisted of himself, Justice Siggins and Justice Horner; however, Justice Siggins was away from court and will have recordings of oral argument and will conference the case with the panel when he returns. Oral argument proceeded without the presence of Justice Siggins.

A116690 St. Vincent's School for Boys,  
v.  
City of San Rafael.  
Cause called and argued by Stephen Kostka, counsel for appellant, and Michael vonLoewenfeldt, counsel for respondent. Cause ordered submitted.

**COURT ADJOURNED**

Wednesday, February 27, 2008 (continued)

Division Four

**A114557 – The People v. Thomas A. Alexander.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

**A116118 – The People v. Jonathan Grigsby.**

The trial court is directed to modify the abstract of judgment to change the payee of the \$4,403.05 restitution order from Pelican Bay State Prison to Lawrence Gutierrez. As modified, the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A116574 – In re Daniel H., a Person Coming Under the Juvenile Court Law. The People v. Daniel H.**

The case is remanded so the juvenile court can state, on record, whether appellant's sexual battery offense is a felony or a misdemeanor, and explain why the court is making that determination. In all other respects, the disposition is affirmed. Jones, P.J. We Concur: Simons, J., Needham, J. (Not for Publication.)

Division Five

**A115234 – James J. Branscom, Jr., as Cotrustee, etc. v. The Superior Court of Contra Costa County.**

The order is reversed and the case is remanded with directions to grant the requested modification. Jones, P.J. We Concur: Needham, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, February 28, 2008

Division One

**A115610 – The People v. Chio F. Saephan.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A115855 – Gerald Adair, Individually and as Trustee, etc. v. Terry Lee, Individually and as Trustee, etc.**

The default judgments against Adair are affirmed, with the exception of that portion of the judgment awarding punitive damages in the amount of \$215,500 to Terry Lee and \$661,972.11 to the Brelow Trust, which is reversed. The parties are to bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A116935 – City of Fremont v. George W. Fisher et al.**

The judgment is affirmed in part and reversed in part. We reverse the part of the judgment awarding the Fishers \$195,413 for temporary severance damages from the TCE. We also reverse the part of the judgment awarding litigation expenses and remand to the superior court for reconsideration consistent with the views expressed in this opinion. The judgment is otherwise affirmed. The Fishers are to pay the costs of appeal. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Certified for Publication.)

Division Three

**A117305 – Alex Kumar et al. v. The Superior Court of Sonoma County; City of Cloverdale, R.P.I.**

The petition of extraordinary relief is granted and the trial court's contempt order is hereby annulled. Each side shall bear its own costs on this appeal. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A117407 – The People v. Robert Lee Barber.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, February 28, 2008 (continued)

Division Four

**A115946 – In re Dennis W., a Person Coming Under the Juvenile Court Law. The People v. Dennis W.**

The orders appealed from are affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A118073 – In re Justin B., a Person Coming Under the Juvenile Court Law. The People v. Justin B.**

The juvenile court's order is affirmed. Reardon, J. I Concur: Sepulveda, J. (See concurring opinion by Ruvolo, P.J.) (Not for Publication.)

**A114930 – Simon David Aviel et al. v. Christina Ng et al.; Khalil Abusharkh et al.**

The judgment is affirmed in its entirety. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A117014 – The People v. Andre Lavont McDaniel.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Division Five

**A120282 – Sasha M. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.**

The petition is conditionally granted. Let a writ issue directing the juvenile court to ensure that proper notice is sent to the BIA, if it has not already done so. If, after proper notice no tribe intervenes, the juvenile court shall reinstate its order confirming the current date for the .26 hearing, or, if necessary to comply with statutory notice requirements, setting a new date for that proceeding. (See *In re Justin S.* (2007) 150 Cal.App.4th 1426, 1437-1438.) If, upon proper notice, a tribe determines that the minor is an Indian child as defined by the ICWA, the juvenile court shall conduct all further proceedings in conformity with all provisions of the ICWA. This opinion is final immediately as to this court. (Rule 8.264(b)(3).) Simons, Acting P.J. We Concur: Needham, J., Stevens, J.\* (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, February 28, 2008 (continued)

Division Five

**A116472 – The People v. Carol Marlene Jones.**

The judgment is affirmed. Jones, P.J. We Concur: Needham, J., Stevens, J.\* (Not for Publication.)

**A114289 – Linda Demery v. Hartford Underwriters Insurance Company.**

The order is affirmed. Stevens, J.\* We Concur: Simons, Acting P.J., Needham, J. (Not for Publication.)

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\* Retired Associate Justice of the Court of Appeal, First District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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Friday, February 29, 2008

Division One

**A119080 – In re Riley J. et al, Persons Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Tanya J.**

The order of September 6, 2007 is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Three

**A117601 – In re Brandon S., a Person Coming Under the Juvenile Court Law. The People v. Brandon S.**

The juvenile court's termination of probation is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A118155 – The People v. Jesus Villalobos Campos.**

The judgment is reversed and remanded to the trial court with directions to exercise its discretion to determine whether probation should have been imposed. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A119152 – In re Tania F., a Person Coming Under the Juvenile Court Law. The People v. Tania F.**

The juvenile court's dispositional order is affirmed. Horner, J.\* We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A116030 – Margaret Profeta et al. v. Vesta Fire Insurance Corporation.**

The judgment is affirmed. Respondent shall recover its costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

**A115465 – The People v. Richard Dean Peacock.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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Friday, February 29, 2008 (continued)

Division Three

**A118703 – In re Institute of Religious Science, San Francisco. Norman Vortigy v. Board of Trustees, Institute of Religious Science, San Francisco.**

The trial court's orders of May 25, 2007, and July 9, 2007 are affirmed. Respondent shall recover its costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

**A115214 – Richard Schlossarek v. State of California.**

The judgment is affirmed. Respondent shall recover its costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Horner, J.\* (Not for Publication.)

**A112977 – S&S Cummins Corporation v. West Bay Builders, Inc.**

By The Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

**A119019 – In re Trent G., a Person Coming Under the Juvenile Court Law. The People v. Trent G.**

The orders declaring the minor a ward of the juvenile court and committing him to the ranch, placing him with his mother under electronic monitoring, and ordering him to serve five weekends in juvenile hall, are affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A119863 – The People v. Daniel H. Reneker.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

**A112776 – The People v. Jeffery Walker.**

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

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\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Alameda County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, February 29, 2008 (continued)

Division Five

**A118429 – The People v. Anthony James Sanders, Jr.**

The judgment is affirmed. The abstract of judgment is ordered corrected to reflect that defendant received a two-year midterm sentence on count one, plus a consecutive one-year enhancement under Penal Code section 667.5, subdivision (b), and that \$200 restitution fines were imposed under Penal Code section 1202.4, subdivision (b) and Penal Code section 1202.45. The superior court is directed to prepare a corrected abstract of judgment and forward it to the Department of Corrections. Stevens, J.\* We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A116218 – California Newspaper Partnership v. County of Marin et al.**

The order denying the IJ's motion under the SLAPP statute is affirmed. The order granting the preliminary injunction is reversed. The parties are to bear their own costs. Jones, P.J. We Concur: Needham, J., Stevens, J.\* (Not for Publication.)

**A117743– John R. Cunningham et al. v. Concerned Albany Neighbors et al.**

The order is affirmed. Needham, J. We Concur: Jones, P.J., Stevens, J.\* (Not for Publication.)

**A115604 – The People v. Eddie Matthew Menefee.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Needham, J. (Not for Publication.)

**A113297 – The People v. Melvin Crowder**

The judgment is affirmed. Stevens, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

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